

FINANCIAL ANALYSIS UNIT ISSUES GENERAL INSTRUCTION ADDRESSED TO REPRESENTATIVE OFFICES OF FOREIGN BANKS IN CHILE



On February 4, the extract of General Instruction No. 61 of the Financial Analysis Unit (hereinafter the **"New General Instruction"**) was published in the Official Gazette, which details the obligations of the country's anti-money laundering and anti-terrorist financing regulations that apply to the representative offices of foreign banks in Chile (hereinafter **"Representative Offices"**), in their capacity as reporting entities, in accordance with Article 3° of Law No. 19,913 or AML Act.

The New General Instruction establishes that the Representative Offices serve as a contact or intermediary between the potential banking client and the parent company, and that the "client" of the Representative Office should be considered to be any individual or legal entity with whom the latter carries out the steps to contract the products and loans offered by the parent bank.

Due to this circumstance, Representative Offices are subject to all the obligations covered in the anti-money laundering and anti-terrorist financing regulations, and must consider their full application taking into account the specific characteristics of the activity.

Thus, the Representative Offices that are in force in the respective registry of the Financial Market Commission must (i) register in the Registry of Reporting Entities of the Financial Analysis Unit, (ii) designate a compliance officer, (iii) have Due Diligence and Know Your Customer (CDD) procedures –with the exception of the Continuous DDC measures- which must be contained in their Anti-Money Laundering and Anti-Terrorist Financing Manual, (iv) report suspicious transactions that they notice in the course of their activities, (v) report suspicious transactions by identifying natural or legal persons included in the lists of the United Nations Security Council Resolutions, (vi) and provide training on the subject to their employees.

Notwithstanding the above, the factual implementation of the CDD obligations of its clients, including the identification of beneficial owners, the one referring to Politically Exposed Persons, the review of the lists of the United Nations Security Council Resolutions, and the training of its employees, will only be enforceable to the extent that the CDD obligations of its clients, including the identification of beneficial owners, the one referring to Politically Exposed Persons, the review of the lists of the United Nations Security Council Resolutions, and the training of its employees, will only be enforceable to the extent that the Representative Office effectively takes steps to contact one or more specific persons, whether natural or legal, with its parent bank to contract the products and services offered by the latter, which will be verified in the audits that the Financial Analysis Unit may carry out.

La información contenida en esta alerta fue preparada por Carey y Cía. Ltda. sólo para fines educativos e informativos y no constituye asesoría legal.

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The New General Instruction states that such actions shall not include those related to mere advertising of a general nature to make known the products and services offered by the parent bank, whether these are disseminated by the Representative Office itself or requested by persons interested in knowing such information.

Finally, the New General Instruction establishes that, as regards the obligation to create and maintain special registers, and considering that Representative Offices are legally prevented from carrying out operations, only the Registers of CDD and KYC and of Politically Exposed Persons (PEP) will be required of them, following the criteria indicated in the previous paragraph.